

Michael Schill

Freyd v University of Oregon, et al

June 20th, 2018



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<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON EUGENE DIVISION</p> <p>JENNIFER JOY FREYD,) Plaintiff,) No. 6:17-CV-00448-MC v.) UNIVERSITY OF OREGON,) MICHAEL H. SCHILL and HAL) SADOFSKY,) Defendants.)</p> <p style="text-align: center;">DEPOSITION OF MICHAEL H. SCHILL</p> <p style="text-align: center;">June 20, 2018 Wednesday 9:09 A.M.</p> <p>THE VIDEOTAPED DEPOSITION OF MICHAEL SCHILL was commenced at Ford Alumni Center, 1720 East 13th Avenue, Room 340, Eugene, Oregon, before Jan R. Duiven, CSR, FCRR, CRC, Certified Shorthand Reporter in and for the State of Oregon.</p>	<p style="text-align: center;">3</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 For Defendant Michael Schill:</p> <p>4 PERKINS COIE</p> <p>5 1120 NW Couch, 10th Floor</p> <p>6 Portland, Oregon 97209</p> <p>7 503/727-2000</p> <p>8 BY: MR. STEPHEN F. ENGLISH</p> <p>9 senglish@perkinscoie.com</p> <p>10 -AND-</p> <p>11 BY: MR. NATHAN R. MORALES</p> <p>12 nmorales@perkinscoie.com</p> <p>13</p> <p>14 For the Defendant U of O and Michael Schill:</p> <p>15 OFFICE OF THE GENERAL COUNSEL</p> <p>16 1226 University of Oregon</p> <p>17 219 Johnson Hall</p> <p>18 Eugene, Oregon 97403</p> <p>19 541-346-3082</p> <p>20 BY: MR. KEVIN S. REED</p> <p>21 ksreed@uoregon.edu</p> <p>22 -AND-</p> <p>23 BY: MS. CRISTELA DELGADO</p> <p>24 cdelgado@uoregon.edu</p> <p>25 (Continued)</p>
<p style="text-align: center;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 For the Plaintiff:</p> <p>4 JOHNSON JOHNSON LUCAS & MIDDLETON</p> <p>5 975 Oak Street, Suite 1050</p> <p>6 Eugene, Oregon 97401</p> <p>7 541/484-2434</p> <p>8 BY: MS. JENNIFER MIDDLETON</p> <p>9 jmiddleton@justicelawyers.com</p> <p>10</p> <p>11 For Defendants U of O and Hal Sadofsky:</p> <p>12 BARRAN LIEBMAN LLP</p> <p>13 601 SW 2nd Avenue, Suite 2300</p> <p>14 Portland, Oregon 97204</p> <p>15 503/228-0500</p> <p>16 BY: MS. PAULA BARRAN</p> <p>17 pbarran@barran.com</p> <p>18 (Appearing by telephone)</p> <p>19 -AND-</p> <p>20 BY: MS. SHAYDA ZAERPOOR LE</p> <p>21 sle@barran.com</p> <p>22 -AND-</p> <p>23 BY: MR. DONOVAN BONNER</p> <p>24 dbonner@barran.com</p> <p>25 (Continued)</p>	<p style="text-align: center;">4</p> <p>1 APPEARANCES (Continued)</p> <p>2</p> <p>3</p> <p>4 Also Present:</p> <p>5 ROBIN CASSIDY-DURAN, CLVS, VIDEOGRAPHER</p> <p>6 JENNIFER JOY FREYD</p> <p>7</p> <p>8 Reported by:</p> <p>9 JAN R. DUIVEN, CSR, FCRR, CRC</p> <p>10 CC REPORTING & VIDEOCONFERENCING</p> <p>11 EUGENE 541/485-0111</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>6</p> <p>1 THE VIDEOGRAPHER: Today's date is</p> <p>2 June 20, 2018. The time is 9:09 a.m. We're</p> <p>3 present for the videotaped deposition of</p> <p>4 Michael H. Schill, in the matter of Jennifer Joy</p> <p>5 Freyd, plaintiff, versus University of Oregon,</p> <p>6 Michael H. Schill, and Hal Sadofsky, defendants,</p> <p>7 in the United States District Court for the</p> <p>8 District of Oregon, Eugene Division, Case</p> <p>9 No. 6:17-cv-00448MC.</p> <p>10 Would all present please identify</p> <p>11 themselves beginning with the witness.</p> <p>12 THE WITNESS: Michael Schill.</p> <p>13 MR. ENGLISH: Stephen English on</p> <p>14 behalf of defendant Michael Schill.</p> <p>15 MR. MORALES: Nathan Morales on</p> <p>16 behalf of defendant Michael Schill.</p> <p>17 MR. REED: Kevin Reed on behalf of</p> <p>18 defendants University of Oregon and Hal Sadofsky.</p> <p>19 MS. LE: Shayda Le on behalf of</p> <p>20 defendants University of Oregon and Hal Sadofsky.</p> <p>21 MR. BONNER: Donovan Bonner on</p> <p>22 behalf of University of Oregon and Hal Sadofsky.</p> <p>23 MS. DELGADO: Cristela Delgado on</p> <p>24 behalf of the University of Oregon and President</p> <p>25 Schill.</p>	<p>8</p> <p>1 get a clear record. Okay?</p> <p>2 A. Hard for a law professor to do, but I</p> <p>3 will do my best.</p> <p>4 Q. Academics, in particular, seem to have</p> <p>5 a rough time, but thank you.</p> <p>6 Your responses also need to be</p> <p>7 audible. So even though we have a videotape here,</p> <p>8 a nod of the head or "uh-huh," "huh-uh," doesn't</p> <p>9 show up well on the transcript. And I may from</p> <p>10 time to time say, "Is that a yes or is that a no?"</p> <p>11 And I don't mean to be badgering you. I'm just</p> <p>12 simply trying to get a clear record. Okay?</p> <p>13 A. Uh-huh. Yes.</p> <p>14 Q. Okay. And if at any time I ask you a</p> <p>15 question you don't understand, please ask me to</p> <p>16 rephrase it or let me know you don't understand.</p> <p>17 Okay?</p> <p>18 A. Sure.</p> <p>19 Q. Great. If you ever need to take a</p> <p>20 break, just let me know, but you do need to</p> <p>21 respond to whatever question is on the table</p> <p>22 before we take the break.</p> <p>23 What is your current position?</p> <p>24 A. I'm president of the University of</p> <p>25 Oregon and I'm also professor of law in the law</p>

<p style="text-align: right;">9</p> <p>1 school.</p> <p>2 Q. How long have you been at the</p> <p>3 University of Oregon?</p> <p>4 A. I started -- my date of appointment</p> <p>5 was July 1, 2015.</p> <p>6 Q. Who reports to you?</p> <p>7 A. Well, my direct reports include all of</p> <p>8 the vice presidents and the provost, in addition</p> <p>9 the Title IX officer reports to me, the -- I</p> <p>10 believe he would be an associate vice president</p> <p>11 for tribal relations reports to me. I have a part</p> <p>12 report of the vice president for research and</p> <p>13 innovation.</p> <p>14 Q. Does the general counsel report to you</p> <p>15 also?</p> <p>16 A. Yes. He's a vice president.</p> <p>17 Q. Oh, okay. And you're also president</p> <p>18 of the faculty. Is that correct?</p> <p>19 A. I think in our constitution I am the</p> <p>20 president of the faculty, although I don't preside</p> <p>21 over the senate.</p> <p>22 Q. What does it mean in your day-to-day</p> <p>23 work to be president of the faculty?</p> <p>24 A. In my day-to-day work it is a title,</p> <p>25 but it's something more than a title because it</p>	<p style="text-align: right;">11</p> <p>1 You know, obviously, <u>there's a million things that</u></p> <p>2 <u>I -- that I care about at the university, but</u></p> <p>3 <u>three major priorities. One is to enhance our</u></p> <p>4 <u>academic -- both our reputation academically, our</u></p> <p>5 <u>research, our research grants from the federal</u></p> <p>6 <u>government as one indicia of that.</u></p> <p>7 I also care about improving our</p> <p>8 teaching, making sure that we are educating the</p> <p>9 next generation of Oregonians. Secondly, so the</p> <p>10 second -- so that's one bucket of priority.</p> <p>11 <u>The second bucket of priority is that</u></p> <p>12 <u>we ensure our students' success, meaning that we</u></p> <p>13 <u>want to be an accessible university. Oregon isn't</u></p> <p>14 <u>a wealthy state and so we want to make sure</u></p> <p>15 <u>students of all sorts can come here, but very</u></p> <p>16 <u>importantly, we want them to succeed because just</u></p> <p>17 <u>getting them in the door isn't enough. We have to</u></p> <p>18 <u>make sure they graduate in a timely fashion. So</u></p> <p>19 <u>students' success, access, affordability is the</u></p> <p>20 <u>second bucket.</u></p> <p>21 <u>And the third bucket is diversity and</u></p> <p>22 <u>an environment where we can learn from each other</u></p> <p>23 <u>and grow.</u></p> <p>24 Q. <u>Let's talk about diversity. Can you</u></p> <p>25 <u>tell me a little bit more about what your</u></p>
<p style="text-align: right;">10</p> <p>1 shows that I am part of the faculty and I'm the</p> <p>2 leader of the faculty, so that's a position I care</p> <p>3 about because I'm an academic.</p> <p>4 Q. As president, you're ultimately</p> <p>5 responsible for everything that happens on campus.</p> <p>6 Correct?</p> <p>7 A. Ultimately, you know, if we think of</p> <p>8 "the buck stops here," yes. I don't have,</p> <p>9 obviously, operational responsibility over</p> <p>10 everything.</p> <p>11 Q. So if a court were to order that</p> <p>12 Professor Freyd's salary should be increased,</p> <p>13 would you be the person responsible for making</p> <p>14 sure that happened?</p> <p>15 A. I think the provost would more likely</p> <p>16 be responsible. The provost handles academic</p> <p>17 matters and the deans report to the provost.</p> <p>18 Obviously, the provost reports to me, so</p> <p>19 ultimately the responsibility would be mine that</p> <p>20 we'd adhere to law. But certainly it would be an</p> <p>21 attenuated or boarding structure to get to me on</p> <p>22 something like that.</p> <p>23 Q. Can you describe your priorities in</p> <p>24 leading the University of Oregon?</p> <p>25 A. Yeah. So I have three priorities.</p>	<p style="text-align: right;">12</p> <p>1 <u>initiatives or priorities are specifically in that</u></p> <p>2 <u>area?</u></p> <p>3 A. <u>Sure. Shortly after I came -- when I</u></p> <p>4 <u>arrived here, there had been work that was ongoing</u></p> <p>5 <u>for a while on something called the Ideal Plan,</u></p> <p>6 <u>which is a diversity strategic plan. We -- I</u></p> <p>7 <u>stepped in and we went through the Ideal Plan. It</u></p> <p>8 <u>was a draft at the time. Ultimately, we -- we</u></p> <p>9 <u>wrote portions of it and then we improved it.</u></p> <p>10 <u>In the past year, we have been --</u></p> <p>11 <u>we've asked each of our departments and each of</u></p> <p>12 <u>our units to do diversity action plans where they</u></p> <p>13 <u>would state five or six things that they could do</u></p> <p>14 <u>to enhance campus climate, inclusion, diversity,</u></p> <p>15 <u>and what we did is equity in the various units.</u></p> <p>16 <u>And then what we did is we asked them</u></p> <p>17 <u>for metrics that we could judge them on after --</u></p> <p>18 <u>after a year -- every year as deans were coming up</u></p> <p>19 <u>for evaluation. We are finalizing that right now.</u></p> <p>20 <u>But we have over 30 diversity action plans.</u></p> <p>21 I also -- with the growth of the Black</p> <p>22 Lives Matter movement, we've spent a lot of time</p> <p>23 on working with our African-American students on a</p> <p>24 series of demands that they gave us. So we're</p> <p>25 doing things like building a black cultural</p>

<p style="text-align: right;">13</p> <p>1 center. We've changed the multicultural</p> <p>2 requirement. Indeed, I think Jennifer's on the</p> <p>3 senate this year. She was involved in that.</p> <p>4 We are doing things that we hired</p> <p>5 African-American faculty into a black culture -- a</p> <p>6 black cluster. That was something that was done</p> <p>7 by the College of Arts and Sciences. We'll</p> <p>8 probably have a black studies minor at some point</p> <p>9 soon. So it's a series of about 12 or 13 things</p> <p>10 that we're doing there.</p> <p>11 We're also trying to do outreach to</p> <p>12 LGBTQ groups, to our Latino populations to -- you</p> <p>13 know, obviously women, and the idea is every group</p> <p>14 is different. And so you can't just sort of say,</p> <p>15 We're going to do X and everyone is going to</p> <p>16 benefit from that. So we try to be very focused</p> <p>17 on what the group needs.</p> <p>18 Some groups are less articulate than</p> <p>19 others in terms of telling us what they need, and</p> <p>20 so we have to kind of go back and research and,</p> <p>21 you know, identify what the needs are.</p> <p>22 Q. And another one of the priorities you</p> <p>23 mentioned was enhancing the university's</p> <p>24 reputation academically.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">15</p> <p>1 engineering school and we don't have a medical</p> <p>2 school, which are big sources of those sorts of</p> <p>3 funding opportunities.</p> <p>4 We have -- another thing that we've</p> <p>5 done is we've gotten a gift from Phil and Penny</p> <p>6 Knight to establish the Knight Campus for</p> <p>7 Accelerating Scientific Impact, which will be</p> <p>8 applied science, and so that's a whole other area</p> <p>9 for us. We've not -- we've never really done</p> <p>10 that. And so -- and we are hoping that that will</p> <p>11 be very competitive in applying for federal</p> <p>12 research support.</p> <p>13 The -- we also want to retain faculty.</p> <p>14 That's something that's very important. It's</p> <p>15 easier -- it's always easier to hire than it is to</p> <p>16 retain -- I'm sorry. It's easier to retain than</p> <p>17 it is to hire, because you've got the people here,</p> <p>18 and we tend to hire on the young side. So --</p> <p>19 because they're more affordable, we can have more</p> <p>20 of our pick of who -- of the population.</p> <p>21 So those are some of the ways in which</p> <p>22 we are moving forward. We're also trying to get</p> <p>23 each of the deans to identify a set of priorities</p> <p>24 for what will move their schools forward</p> <p>25 academically, because what will move -- it's not</p>
<p style="text-align: right;">14</p> <p>1 Q. Can you tell me a little bit more</p> <p>2 about how specifically you're endeavoring to do</p> <p>3 that?</p> <p>4 A. Sure. So the main way that we are</p> <p>5 trying to do that is through -- well, it's a</p> <p>6 multi-pronged approach, but one is to hire more</p> <p>7 tenure-related faculty, because tenure-related</p> <p>8 faculty are typically the ones that do research.</p> <p>9 Not entirely. Some in the School of Education,</p> <p>10 for example do that, spend their time doing</p> <p>11 research, but mostly it's tenure-related faculty.</p> <p>12 So we're doing that.</p> <p>13 It is we're trying to recruit. So</p> <p>14 we're trying to hire -- so far we're up about</p> <p>15 60 faculty since I came here net additions. We're</p> <p>16 trying to get to between 80 to 100 faculty. We</p> <p>17 want them all to be highly research active.</p> <p>18 We put an emphasis on the sciences,</p> <p>19 the natural sciences in particular. And we've</p> <p>20 also -- <u>one of my top objectives is to increase</u></p> <p>21 <u>our federal funding, because this school ranks</u></p> <p>22 <u>very low among our peers in federal research</u></p> <p>23 <u>funding. So that has been a repeated effort as</u></p> <p>24 <u>we've done that.</u></p> <p>25 One of the reasons is we don't have an</p>	<p style="text-align: right;">16</p> <p>1 just a let's build the natural sciences, even</p> <p>2 though that's of -- most people on campus know</p> <p>3 that's a big focus of mine. But, in addition, I</p> <p>4 want the entire university to get better and so we</p> <p>5 want each dean to be thinking about what will make</p> <p>6 his or her particular unit better.</p> <p>7 Q. One of the things you mentioned was</p> <p>8 increasing federal grants. The purpose of those</p> <p>9 federal grants is to enable research. Right?</p> <p>10 A. Yes.</p> <p>11 Q. So, ultimately, the goal is to</p> <p>12 increase research. Correct?</p> <p>13 A. The goal is to -- so the initial goal</p> <p>14 is to increase research. There's overhead from</p> <p>15 the grants, some of which is poured back into the</p> <p>16 research. Some is poured back into facilities for</p> <p>17 the research. I don't know. It may be that some</p> <p>18 of it is -- finds its way into the departments for</p> <p>19 academic purposes other than research, but it</p> <p>20 would be a relatively small chunk. But that</p> <p>21 supports the entire research effort of the</p> <p>22 university.</p> <p>23 And it isn't necessarily one for one</p> <p>24 that it comes back to the researcher rights. So I</p> <p>25 know that our VPRI might take a portion of the</p>

17

1 overhead that comes from the natural sciences and
2 give it in grants to people in the humanities who
3 are doing research and who don't have
4 opportunities, the same sort of opportunities as
5 the natural scientist to get grant funding.

6 But, you know, additionally -- so,
7 yes. So the answer is yes. And -- but research
8 is also an indication and federal grants are also
9 an indication of the quality of the university, of
10 an R1 university.

11 Q. Why federal grants in particular?

12 A. Because federal grants are peer
13 reviewed, and so grants from NIH and grants from
14 NSF, you don't get them unless your peers, who are
15 typically the top people in the field, determine
16 that you deserve them and -- and so there is
17 this -- it's a long-standing process in academics.

18 So to succeed in acquiring federal
19 grants suggests that your faculty are high
20 achieving, are doing work at the cutting edge,
21 because people in other fields are recognizing
22 them as such.

23 Q. Is the same true for at least some
24 private grants?

25 MR. ENGLISH: Is -- is what true?

18

1 BY MS. MIDDLETON:

2 Q. Is the same true that they're peer
3 reviewed?

4 A. No. So if it is a gift -- if it is a
5 donation from a -- say, an alumnist, the grant
6 is -- they make the gift because they love the
7 school and they're sort of enchanted with the
8 idea. They may like the faculty member, but
9 they're not seeing the whole -- or at least I
10 can't tell what's behind the screen whether
11 they're peer reviewed.

12 Q. But what about a foundation grant? So
13 let's say the Ford Foundation or some other
14 prestigious foundation.

15 A. Maybe. You know, I don't know -- I've
16 never -- I know less about foundation grant
17 making. Certainly there are -- it probably
18 depends on the foundation.

19 Q. State taxpayers in Oregon fund at
20 least a portion of the UO's mission. Is that
21 right?

22 A. Yes. I believe they fund 13 percent
23 of our academic expenditures and about 6 percent
24 of our total expenditures.

25 Q. Is there a value to the public in

19

1 getting the research that you want to see done
2 done without spending additional taxpayer dollars?

3 A. I guess I don't understand the
4 question.

5 Q. Well, I guess, you know, you talk
6 about federal grants. Those are federal taxpayers
7 paying for the grants. Correct?

8 A. Right.

9 Q. So if you can get the research done
10 without the federal grants, and not costing the
11 federal taxpayers money, do you -- would you see
12 that as a public good?

13 MR. ENGLISH: Are you asking for his
14 opinion on this?

15 MS. MIDDLETON: Yes.

16 A. I mean, I -- I don't think it's
17 necessarily -- I think it's -- I think
18 high-quality research is good no matter what.

19 BY MS. MIDDLETON:

20 Q. Regardless of the --

21 A. What the -- what the source of
22 funding.

23 MS. MIDDLETON: I'm going to pull
24 out an exhibit and I think we should mark these as
25 "Schill 1" and up.

20

1 MR. ENGLISH: Just out of curiosity,
2 has this already been an exhibit to another
3 deposition?

4 MS. MIDDLETON: No.

5 MR. ENGLISH: Okay. Are you doing
6 sequential from beginning to end or is each one --
7 each deposition is a sequential 1 through
8 whatever?

9 MS. MIDDLETON: We have up until
10 now. My thinking in starting with 1 is that we
11 have a new set of lawyers representing Mr. Schill.

12 MR. ENGLISH: That's fine.

13 MS. MIDDLETON: Plus, I'm not sure
14 what we ended with yesterday, but --

15 THE VIDEOGRAPHER: She has them.

16 MS. MIDDLETON: Do you have them?

17 THE VIDEOGRAPHER: Yeah.

18 MR. ENGLISH: That's fine.

19 MS. MIDDLETON: Well, let me let the
20 court reporter mark that one.

21 MR. ENGLISH: And it will get handed
22 over from the court reporter.

23 (Deposition Exhibit No. 1
24 marked for identification.)

25 ///

1 State of Oregon)
2 County of Lane) ss.
3

4 I, Jan R. Duiven, CSR, FCRR, CRC, a
5 Certified Shorthand Reporter for the State of
6 Oregon, certify that the witness was sworn and the
7 transcript is a true record of the testimony given
8 by the witness; that at said time and place I
9 reported all testimony and other oral proceedings
10 in the matter; that the foregoing transcript
11 consisting of 164 pages, contains a full, true and
12 correct transcript of the proceedings reported by
13 me to the best of my ability on said date.

14 If any of the parties or the witness
15 requested review of the transcript at the time of
16 the proceedings, correction pages have been
17 inserted.

18 IN WITNESS WHEREOF, I have set my hand
19 this 2nd day of July, 2018, in the City of Eugene,
20 County of Lane, State of Oregon.

21

22



23 Jan R. Duiven, CSR, FCRR, CRC

24 CSR No. 96-0327

25 Expiration Date: September 30, 2020